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MFN TRADE STATUS: WHO HAS IT AND WHY

Eligibility requirements for MFN:

- o With very few exceptions our trading partners receive MFN treatment automatically under U.S. trade law.

- o Article I of the General Agreement on Tariffs and Trade (GATT) obliges all GATT members to accord unconditional MFN status to all other members, of which there now are 102.

- o Title IV of the Trade Act of 1974 denies MFN to any "nonmarket economy" country not receiving MFN as of January 3, 1975, if the President determines that such country denies or seriously restricts its citizens' right to emigrate. A country subject to this provision may gain MFN only by meeting two conditions:

  (1) Compliance with the freedom-of-emigration provisions, or waiver thereof (Jackson-Vanik Amendment), and

  (2) A bilateral commercial agreement with the U.S., approved by Congress, providing reciprocal nondiscriminatory treatment and meeting certain additional requirements.

The Jackson-Vanik Amendment:

- o The Jackson-Vanik Amendment to the Trade Act of 1974 allows an affected country to receive MFN only if the President determines that it permits free and unrestricted emigration.

  -- The President may waive the prohibition on MFN if he determines and reports to the Congress that a waiver will substantially promote the freedom of emigration objectives of the Amendment.

  -- The President must act by June 3 of each year to renew the waiver authority for each country, including China. Congress may disapprove the renewal by joint resolution.

Communist or former communist countries eligible for MFN:

<u>Bulgaria</u>: The President executed a Jackson-Vanik waiver on January 23, 1991, renewed it on June 3, and Bulgaria received MFN trade status on November 22, 1991.

<u>China</u>: MFN was accorded February 1, 1980, and has been renewed annually.

<u>Czechoslovakia</u>: The President issued a Jackson-Vanik waiver in January 1990, and Czechoslovakia received MFN treatment on November 16, 1990. Czechoslovakia was removed from Title IV's provisions by Public Law 102-182 of December 4, 1991.

Doc 835

Hungary: An annual Jackson-Vanik waiver was required from 1978, when a trade agreement entered into force, until 1990, when Hungary was found to comply fully with the Jackson-Vanik conditions. Title IV no longer applies to Hungary because of Public Law 102-182 of December 4, 1991.

Mongolia: The President executed Jackson-Vanik waivers on January 23 and June 3, 1991, and Mongolia received MFN status on November 27, 1991.

Poland: Although not subject to Title IV, MFN was temporarily withdrawn in 1982 following the declaration of martial law and crackdown on the Solidarity movement. MFN was restored in 1987.

Yugoslav Republics: Each of the republics, Slovenia, Croatia, Bosnia, and Serbia/Montenegro, has unconditional MFN status. We currently have no trade with Serbia/Montenegro because of the U.N.-sponsored trade embargo imposed May 30, 1992.

Former Soviet Republics: Eight of the 15 former republics of the Soviet Union have MFN. Estonia, Latvia, and Lithuania were extended MFN as a result of their removal from Title IV's provisions. The 12 other former republics receive MFN on the same date as entry into force of the required Title IV trade agreement. All twelve were offered trade agreements modeled on the U.S.-Soviet trade agreement and advised that we will not accept substantive changes. To date, only Armenia, Kyrgyzstan, Moldova, Russia, and Ukraine have ratified trade agreements and receive MFN.

Kazakhstan has accepted the trade agreement's text, but its parliament has not yet ratified the treaty. Tajikistan and Uzbekistan have accepted the model text in principle, but not yet signed agreements. Belarus proposed unacceptable changes to the model text and has not yet responded to our rejection of its proposals. Azerbaijan, Georgia, and Turkmenistan have not yet indicated whether they wish to sign trade agreements extending MFN.

Who does not receive MFN?

Afghanistan: Afghanistan is not subject to Title IV, but its MFN status was suspended by Presidential proclamation effective February 14, 1986.

Albania: Albania does not yet have MFN; the U.S.-Albania trade agreement was signed on May 14, 1992, and has been submitted to Congress for approval.

Romania: MFN provisions, originally extended August 3, 1975, have been mutually suspended since 1988. A new bilateral trade agreement has been submitted to Congress but has not yet been approved.

Other communist countries which do not receive MFN status include Cambodia, Cuba, Laos, North Korea, and Vietnam.

MFN for China:

- o The reciprocal granting of MFN was an immediate and fundamental consequence of the normalization of U.S.-China relations in 1979-1980.

  -- At that time, China met the requirements of the Jackson-Vanik amendment with regard to the negotiation of an acceptable trade agreement and a commitment on freedom of emigration.

  -- China has satisfied the explicit Jackson-Vanik requirement on emigration every year since the initial granting of MFN in 1980.

- o Over the past several years, both the Administration and Congress have considered factors other than freedom of emigration, including more general human rights performance, in deciding whether to renew MFN.

  -- Broader interests justify continuing MFN. It has served to promote positive internal change in China through trade and enabled the U.S. to engage China on issues of vital concern, such as human rights, weapons nonproliferation and trade.

- o The situation with a country that has MFN, such as China, is fundamentally different from that of one that does not.

  -- MFN is already in place and plays an important role in the bilateral relationship.

  -- Withdrawal of MFN would result in the loss of gains already made: in influencing reform, engaging in dialogue on issues of concern, and in people-to-people contact afforded by trade and investment.

  -- Economic losses from MFN withdrawal would be visible; U.S. exporters would lose sales to competitors from Japan and Europe and U.S. consumers would pay more for Chinese-made products.